IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21359 of 2006
with
SPECIAL CIVIL APPLICATION No. 20953 of 2006
with
SPECIAL CIVIL APPLICATION No. 20955 of 2006
with
SPECIAL CIVIL APPLICATION No. 21423 of 2006
with
SPECIAL CIVIL APPLICATION No. 21426 of 2006
with
SPECIAL CIVIL APPLICATION No. 21428 of 2006
with
SPECIAL CIVIL APPLICATION No. 21639 of 2006
with
SPECIAL CIVIL APPLICATION No. 21654 of 2006
with
SPECIAL CIVIL APPLICATION No. 21656 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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OM EDUCATION TRUST THRO' ITS PRESIDENT – Ors.
Petitioner(s)
Versus
STATE OF GUJARAT THRO' SECRETARY & 1 - Respondent(s)

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Appearance :
SPECIAL CIVIL APPLICATION Nos. 21359/06, 20953/06 and 20955/06
MR HJ NANAVATI for Petitioner(s) :
MR SIRAJ GORI AGP for Respondent(s) :
SPECIAL CIVIL APPLICATION Nos.21423/06, 21426/06, 21428/06, 21639/06 & 21654/06
MR BP GUPTA for Petitioner(s) :
MR SIRAJ GORI AGP for Respondent(s) :
SPECIAL CIVIL APPLICATION No. 21656/06
MS MAMTA VYAS for Petitioner(s) :
MR SIRAJ GORI AGP for Respondent(s) :

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 10/10/2006

ORAL JUDGMENT

1. Learned advocate Ms. Vyas seeks permission to delete respondent nos. 3 and 4 from Special Civil Application No.21656/06. Permission granted.

2. Rule. Learned Asst. Government Pleader Shri Gori wavies service of rule on behalf of respondents.

3. Common question arises in these petitions. They are, therefore, disposed of by this common order.

4. These petitioners seek allotment of sufficient

number of students bearing in mind their intake capacity to admit students in PTC colleges which they wish to start from the current academic year. Petitioners had applied for recognition to National Council for Teachers Education (NCTE for short) in April/May, 2006. Such recognitions were however granted to them much later. These petitioners have received such recognitions in two lots by orders passed by NCTE on 31st August, 2006 and 15th September, 2006.

5. Earlier with similar factual background and making similar prayers, several institutions had approached this Court. This Court had by two separate orders dated 20/9/2006 and 27/9/2006 had turned down the request of the institutions finding that it would not be possible to complete sufficient number of days required for completing the course for current academic year.

6. Learned advocates appearing for the petitioners however pointed out that against said decisions of this Court, aggrieved institutions had approached Division Bench by filing LPA No.1262/06 and allied matters. In these group of LPA's, Division Bench had

pronounced operative portion by order dated 9th October, 2006 which reads as follows:

> "Considering the over all view of the matter, the following directions are issued.
>
> (i)The appellants are directed to adhere to the norms laid down by the NCTE in the Letter of Recognition;
>
> (ii)The appellants shall work on all the days for six hours a day till the end of April 2007, except five public holidays for festival and Republic Day;
>
> (iii)All the seats in the appellants shall be filled in from the merit lists prepared by the State Government authorities and no seat shall be treated as a management seat.
>
> (iv)The allotment shall be completed within five days from the first day of counseling, since scrutiny of mark sheets is already made by the State Government and the merit list is in existence;
>
> (v)The above allotment would not entail any right in favour of those students

who have already secured admission in other PTC Colleges either in Government or Management quota and shall not be considered for admissions to the appellants-Institutes and there will be no reshuffling.

(vi)The Director of Primary Education shall issue advertisements in all five leading Gujarati newspapers in the State- being Gujarat Samachar, Sandesh, Divya Bhaskar, Fulchhab and Gujarat Mitra (all Gujarat editions) calling students from a particular Sr. No. in a batch of respective categories to remain present for the interviews within certified copies of documents.

(vii)The expenses for the newspaper advertisements shall be deposited by the appellant institutions with the Director of Primary Education and to start with, each appellant institution shall deposit Rs.25,000/- latest by 10th October 2006.

(viii)The appellants shall not charge from the students any amount in excess of

the amounts of tuition fees, hostel fees an any other fees/expenses determined by the State Government and/or the Director of Primary Education. The accounts relating to all the amounts received by the appellants including food bill amounts shall be submitted to the Director of Primary Education or any other authority nominated by him.

(ix)The appellant shall given an undertaking before the concerned Authority about regular payment of salary to the staff as per the norms laid down by the NCTE.

(x)The Managing Trustee of each appellant institution shall file an undertaking before this Court by 10th October 2006 to comply with all the above terms and conditions.

(xi)The respondent-State Authorities are directed to commence admission process on 13th October 2006 and to continue upto 18th October 2006 and the concerned eligible students be informed

immediately and the academic session be commenced from 19th October, 2006.

With the aforesaid directions, these appeals are allowed. The orders dated 20th September 2006 in Special Civil Application Nos. 20137 of 2006, 20138 of 2006, 20139 of 2006, 20414 of 2006; dated 27th September 2006 in Special Civil Application No. 19132 of 2006, dated 28th September 2006 in Special Civil Application No.20702 of 2006, dated 28th September 2006 in Special Civil Application No.20282 of 2006, dated 21st September 2006 in Special Civil Application No.20290 of 2006, dated 26th September 2006 in Special Civil Application No.20511 of 2006, dated 26th September 2006 in Special Civil Application No.20507 of 2006, are quashed and set aside qua the appellants only. There shall be no order as to costs.

Consequently, Civil Applications for stay do not survive and stand rejected."

7. It is stated that the Division Bench has yet to

indicate its reasons and pass full orders for passing the said operative order, however considering paucity of time, above operative order has been pronounced and copies thereof are made available to the learned advocates.

8. Factual aspect arising in these petitions are identical. As noted earlier these petitioners have received recognition from NCTE on 31st August, 2006/15th September, 2006. These petitioners also therefore should receive same treatment.

9. In parity with institutions covered by order dated 9/10/2006 passed by Division Bench in LPA No.1262/06 and allied matters, these petitioners shall also be included in the admission process directed to be undertaken by the Division Bench in the said order upon verification of orders of recognition on following terms and conditions:

(i)The petitioners are directed to adhere to the norms laid down by the NCTE in the Letter of Recognition;

(ii)The petitioners shall work on all the days for six hours a day till the end of April 2007, except five public

holidays for festival and Republic Day;

(iii)All the seats in the petitioners shall be filled in from the merit lists prepared by the State Government authorities and no seat shall be treated as a management seat.

(iv)The allotment shall be completed within five days from the first day of counseling, since scrutiny of mark sheets is already made by the State Government and the merit list is in existence;

(v)The above allotment would not entail any right in favour of those students who have already secured admission in other PTC Colleges either in Government or Management quota and shall not be considered for admissions to the appellants-Institutes and there will be no reshuffling.

(vi)The Director of Primary Education shall issue advertisements in all five leading Gujarati newspapers in the State- being Gujarat Samachar, Sandesh, Divya Bhaskar, Fulchhab and Gujarat Mitra (all Gujarat editions) calling students from a particular Sr. No. in a batch of respective categories to remain present for the interviews within certified copies of documents.

(vii)The expenses for the newspaper advertisements shall be deposited by the petitioner institutions with the

Director of Primary Education and to start with, each petitioner institution shall deposit Rs.25,000/- latest by 11th October 2006.

(viii)The petitioners shall not charge from the students any amount in excess of the amounts of tuition fees, hostel fees an any other fees/expenses determined by the State Government and/or the Director of Primary Education. The accounts relating to all the amounts received by the petitioners including food bill amounts shall be submitted to the Director of Primary Education or any other authority nominated by him.

(ix)The petitioners shall given an undertaking before the concerned Authority about regular payment of salary to the staff as per the norms laid down by the NCTE.

(x)The Managing Trustee of each petitioner institution shall file an undertaking before this Court by 11th October 2006 to comply with all the above terms and conditions.

(xi)The respondent-State Authorities are directed to commence admission process on 13th October 2006 and to continue upto 18th October 2006 and the concerned eligible students be informed immediately and the academic session be commenced from 19th October, 2006.

(xii)All the petitioners shall file an undertaking before this court that necessary qualified staff will be provided by the petitioners and same will be demonstrated before the state authorities within a period of four weeks from today."

10. With these directions all petitions are allowed in above terms. Rule is made absolute. No costs.

11. After the above order was passed in the morning session, it was stated before the Court jointly by the learned advocates for the petitioners as well as learned AGP Shri Gori for the State that today the Division Bench in a Letters Patent Appeal No.1279/06 refused to entertain the Letters Patent Appeal indicating that no more appeals can be entertained since the entire programme is time bound. It may be noted that the learned advocates do not have the copy of the order passed by the Division Bench, however, Shri Gupta who appeared for the appellant conveyed the said development as it transpire before the Bench.

12. On the basis of this development, learned AGP

Shri Gori submitted that this Court also should not grant any additional permissions for admitting students. He submitted that the learned advocate concerned ought to have stated before the Court that Letters Patent Appeal arising similar questions is coming up before the Division Bench today itself. He submitted that in view of this development, this Court should recall the order passed in the morning session.

13. It may be noted that this Court has followed the directives of the Division Bench contained in order dated 9/10/2006 in group of Letters Patent Appeal and found that considering the time schedule provided therein, it is still possible to accommodate the petitioner institutions in the process of granting of admissions required to be undertaken by the Government pursuant to the order of the Division Bench. At that stage, therefore, this Court was influenced by and was bound by the view of the Division Bench as emanating from order dated 9/10/2006. Having once passed the order, I do not find it either possible or necessary to recall the same on account of subsequent developments. It may be noted that the order of the Division Bench

rejecting Letters Patent Appeal was passed after this Court dictated the order in the open Court.

14. Considering all these aspects of the matter, I do not find it possible to recall the order already passed. However, learned AGP Shri Gori is justified in pointing out that in any further petitions, this Court shall have to adopt the same mode as done by the Division Bench in its today's order.

15. Learned AGP Shri Gori requests for staying of the order for two weeks. This request cannot be accepted, since the same would render the petitions as well as the order completely infructuous. Request is, therefore, turned down.

(Akil Kureshi, J.)

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